

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB STORY**, on March 7, 2001 at 8:00 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Bob Story, Chairman (R)
Rep. Ron Erickson, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Keith Bales (R)
Rep. Joe Balyeat (R)
Rep. Gary Branae (D)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. Rick Dale (R)
Rep. Ronald Devlin (R)
Rep. John Esp (R)
Rep. Gary Forrester (D)
Rep. Daniel Fuchs (R)
Rep. Verdell Jackson (R)
Rep. Jesse Laslovich (D)
Rep. Trudi Schmidt (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)
Rep. David Wanzenried (D)

Members Excused: Rep. Roger Somerville, Vice Chairman (R)

Members Absent: None.

Staff Present: Jeff Martin, Legislative Branch
Rhonda Van Meter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 609, 3/2/2001
Executive Action: HB 609; HJ 2; HB 58; HB 61

HEARING ON HB 609

Sponsor: REP. STORY, HD 24, Park City

Proponents: John Bloomquist, Montana Stock Growers Association
Bob Stephens, Montana Grain Growers Association
Carol Lambert, WIFE
Mike Murphy, MWRA
Nancy Schlepp, Montana Farm Bureau

Opponents: None.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 3.7}

REP. STORY, HD 24, Park City, stated HB 609 is a bill that goes into the statute and revises the criteria that the Agriculture Land Advisory Committee uses when they set up the process for revaluing agricultural lands. He gave a history on the evaluation of agricultural lands in Montana. This bill gives the advisory committee a little more flexibility in where they get their sources of information. It also gives them authority to adjust the capitalization rate. The last part of the statute says what the advisory committee shall do before it recommends value to the department.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 14}

John Bloomquist, Montana Stock Growers Association, stated the Fiscal Note explains what the bill does. It gives the Agricultural Land Advisory Committee more discretion and more information in determining evaluation of agriculture lands based on their productivity. It will give the committee more tools to try to determine the appropriate productive values of agricultural lands for taxation purposes.

Carol Lambert, WIFE, stated this is a fair way to determine agriculture taxes. Different parts of Montana have different land values. She asked for the committee's support of the bill.

Bob Stephens, Montana Grain Growers Association, stated his association supports HB 609.

Nancy Schlepp, Montana Farm Bureau, stated MFB supports HB 609.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 16.9}

REP. BALYEAT asked **REP. STORY** what the Fiscal Note says. **REP. STORY** stated it is just a technical note. There are no costs in the Fiscal Note.

REP. SCHMIDT asked **REP. STORY** why is it time to start a new evaluation process? **REP. STORY** stated agriculture land, in statute, is supposed to be reevaluated every three years. It is time to do another evaluation.

REP. DEVLIN asked **REP. STORY**, regarding the adjustment of the capitalization rate, is there the same flexibility to do that on other types of income producing properties? **REP. STORY** stated the capitalization rate on other properties is not a firm number in statute, it is a number that is commonly used in appraisal and has to do with commercial interest rates. The higher the capitalization rate the lower the value of the property.

REP. ESP asked **REP. STORY** regarding page 2, line 14 - 17, what was the reasoning behind leaving those in statute? **REP. STORY** stated the way the statute is constructed it does leave the hard number in place unless the committee can come up with information to show that number should be changed. He gave an example. The bill does take the cap of the costs on irrigated land. He gave the reasons for that.

REP. WAITSCHIES asked **REP. STORY**, regarding the capitalization rate, if the advisory committee recommends stiffer regulations is it statewide or by region? **REP. STORY** stated the capitalization rate is statewide.

REP. FORRESTER asked **REP. STORY** do you think this bill is giving the advisory committee too much latitude? **REP. STORY** stated that is the way the bill is structured. They can make recommendations based on the information that they are allowed to use in the bill. Then they have to go through a rule making process to adopt those recommendations. **REP. FORRESTER** asked, is it your intent with the bill to have something that is fairly revenue neutral? **REP. STORY** stated they have tried to hold this fairly revenue neutral. **REP. FORRESTER** asked why does agricultural land need to be revenue neutral? **REP. STORY** stated the reason is more political than practical. If you went with productive valuation to it's fullest extent on agricultural land you have decreases in taxable value. He gave an example. **REP. FORRESTER** asked how would the committee look at an individual property which cuts

back on the grazing and really doesn't irrigate the crops? **REP. STORY** stated the committee would never look at a property like that. The use of the property really doesn't have a whole lot of effect on the evaluation. **REP. FORRESTER** asked how **REP. STORY** would address a property owner who has a lot of land used for trophy ranches. **REP. STORY** stated that could not be addressed in this bill. You would have to create a new class of property to address that. He gave an example.

REP. SCHMIDT asked **REP. STORY** who appoints the advisory committee members and are they reimbursed? **REP. STORY** stated he believes the advisory council is appointed by the government. *{Tape : 1; Side : B; Approx. Time Counter : 0.1}* The question was deferred to **Randy Wilke, Department of Revenue**, who stated typically the members come from the agriculture organizations, the banking industry and the league of cities and towns. They are reimbursed.

REP. BALES asked **REP. STORY** since the cap on irrigation cost's will affect all lands equally, statewide, on irrigated lands the costs on different drainage's are considerably different whether or not you just have a diversion ditch or whether you have to pump the water. Will that be done on different drainage's or will it be done statewide? **REP. STORY** gave an example. There is some flexibility.

REP. JACKSON asked **REP. STORY** is this directed at 20 acres or less and if it's 20 acres or more is it in a different category? **REP. STORY** deferred the question to **Mr. Wilke** who stated lands less than 20 acres (tract lands) are valued at market value. For that land to demonstrate agricultural status it has to demonstrate \$1500 of annual proceeds that comes from production of the land. Land between 20 and 160 acres is called non-qualified agriculture land. It can get agricultural status if it demonstrates production off the land. That property is valued at grazing land and 7 times the class for tax rate which determines taxable value. Regarding land that is above 160 acres, the ranking of agricultural status is based on it's productivity.

REP. ERICKSON asked **Mr. Wilke** how many people are there usually on the advisory committee? **Mr. Wilke** stated there are about 12 to 14 members. It is a very diverse group from all over. **REP. ERICKSON** asked has it always been the case that the department takes the recommendations of the committee or are there sometimes changes. **Mr. Wilke** stated he can't think of a time the department didn't take the recommendations of the committee.

REP. ERICKSON asked **REP. STORY** why would someone want to change the 7 year base period? **REP. STORY** stated he was not sure why they took the 7 year rolling average out. **REP. ERICKSON** asked is there any flexibility in terms of east vs. west in terms of agricultural property taxes? **REP. STORY** stated the flexibility is not so much in the process here but in the classification system that the department uses. They have a fairly extensive bunch of subclasses of grazing land, irrigated land and crop land. Those tend to reflect more of the climatic and soil conditions of the state.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 9.6}

REP. STORY stated subsection 7 of the bill talks about the requirements of the advisory committee. The intent of the bill is to try to create a little more flexibility for the advisory committee in what they can use to come up with their recommendations so they aren't locked into a system that doesn't represent what is actually happening on the land.

EXECUTIVE ACTION ON HB 609

{Tape : 1; Side : B; Approx. Time Counter : 11.5}

Motion/Vote: **REP. FORRESTER** moved that **HB 609 DO PASS**. Motion carried unanimously.

CONTINUED DISCUSSION ON HJ 2

{Tape : 1; Side : B; Approx. Time Counter : 13.8}

Don Hoffman, Department of Revenue, submitted two documents **EXHIBIT**(tah52a01) and **EXHIBIT**(tah52a02) and there was discussion on the documents.

{Tape : 2; Side : A; Approx. Time Counter : 2.1}

Motion: **REP. SOMERVILLE** moved that **AMENDMENT HJ000205.ar1 BE ADOPTED**.

Discussion:

REP. SOMERVILLE stated that he would like to stay with the conservative numbers on amendment HJ000205.ar1.

REP. WANZENRIED asked **REP. SOMERVILLE** does that amendment put in the \$3.5 million? **REP. SOMERVILLE** stated yes. This may be a couple million dollars short but he would rather stay on the conservative side.

Vote: Motion that **AMENDMENT HJ000205.arl** BE **ADOPTED** carried unanimously.

Motion: **REP. WANZENRIED** moved that **AMENDMENT HJ000217.arl** BE **ADOPTED**.

Discussion:

REP. WANZENRIED passed out the amendment **EXHIBIT (tah52a03)** and there was discussion on it.

REP. SOMERVILLE suggested the committee stick with the numbers projected in amendment HJ000205.arl. There was discussion on that suggestion.

Vote: Motion that **HJ000217.arl** BE **ADOPTED** carried 11-9 with **Andersen, Bales, Balyeat, Devlin, Esp, Jackson, Somerville, Story, and Waitschies** voting no.

{Tape : 2; Side : A; Approx. Time Counter : 29.7}

Motion: **REP. SOMERVILLE** moved that **CONCEPTUAL AMENDMENT TO CHANGE 2002 FROM THE \$3.75 MILLION TO \$5.0 MILLION** BE **ADOPTED**.

Discussion:

REP. SOMERVILLE explained the conceptual amendment and there was discussion on it.

Vote: Motion that **CONCEPTUAL AMENDMENT** BE **ADOPTED** failed 10-10 with **Andersen, Bales, Balyeat, Dale, Devlin, Esp, Jackson, Somerville, Story, and Waitschies** voting aye.

{Tape : 2; Side : B; Approx. Time Counter : 2.7 - 24.0}

There was a discussion on Individual Income Tax.

Motion: **REP. SOMERVILLE** moved that **AMENDMENT HJ000204.arl** BE **ADOPTED**.

Discussion:

REP. SOMERVILLE passed out the amendment **EXHIBIT(tah52a04)** and there was discussion on it. The Individual Income Tax Compliance Collections FY2000 were also passed out **EXHIBIT(tah52a05)**.

Motion: REP. WANZENRIED moved that **SUBSTITUTE AMENDMENT HJ000214.ar1** BE ADOPTED.

Discussion:

REP. WANZENRIED passed out the amendment **EXHIBIT(tah52a06)** and there was discussion on it. The Individual Income Tax Historic and Forecast Compliance Collections were also passed out **EXHIBIT(tah52a07)**.

{Tape : 3; Side : B; Approx. Time Counter : 23}

Vote: Motion that **SUBSTITUTE AMENDMENT HJ000214.ar1** BE ADOPTED failed 8-12 with Branae, Carney, Cyr, Erickson, Forrester, Laslovich, Schmidt, and Wanzenried voting aye.

Vote: Motion that **AMENDMENT HJ000204.ar1** BE ADOPTED carried 17-3 with Forrester, Laslovich, and Wanzenried voting no.

{Tape : 3; Side : B; Approx. Time Counter : 25.7}

There was discussion on HJ 2.

Motion: REP. SOMERVILLE moved that **HJ 2 DO PASS AS AMENDED**.

Discussion:

There was further discussion on HJ 2.

Vote: Motion that **HJ 2 DO PASS AS AMENDED** carried 17-3 with Carney, Laslovich, and Wanzenried voting no.

EXECUTIVE ACTION ON HB 58

{Tape : 4; Side : A; Approx. Time Counter : 1.7}

Motion: REP. ERICKSON moved that **HB 58 DO PASS**.

Discussion:

REP. ERICKSON stated this is the bill that is going to double the cigarette tax for the tobacco trust.

Motion: **REP. WADDILL** moved that **AMENDMENT HB005802.ajm BE ADOPTED.**

Discussion:

REP. WADDILL passed out the amendment **EXHIBIT (tah52a08)** and talked about it.

Mr. Martin explained the amendment.

REP. WANZENRIED asked **REP. WADDILL** if this amendment is adopted where will Montana be placed in the National Ranking? **REP. WADDILL** stated, in the National Ranking Montana would be below Alaska and Hawaii and 5 states in the western states. **REP. ERICKSON** stated this bill will keep Montana 17th from the bottom. This amendment puts Montana 17th from the top.

REP. CARNEY stated she is in favor of the amendment. This will be a way to care for the health problems of Montana tobacco users.

REP. BALYEAT stated he opposes the amendment as it is a tax increase.

REP. WADDILL stated he sees the amendment as the rest of the taxpayers are actually paying excessive taxes for this small group of people because they do not pay an adequate amount of tax. If you vote against this amendment you are voting for an increased tax for the rest of the population.

REP. BALYEAT stated smokers pay the same income tax rate that non-smokers pay. They are not getting any kind of special treatment.

REP. SCHMIDT stated when the price goes up less teens begin smoking. The purpose of this is to prevent people from smoking. Montana is the bottom and it is time to raise the tax to be comparable with other states. She supports the amendment.

REP. DEVLIN stated he is against the amendment. These things are brought as punitive more than anything else.

REP. CARNEY stated the reason that non-smokers are paying more taxes is that they have to pay more insurance premiums to pay for the care of the smokers.

REP. BALES stated he is against the amendment. Dying at 65 from a tobacco related illness does not cost any more than dying at 85 from some illness that had nothing to do with tobacco. A life

insurance policy has a higher premium if you are a smoker because the average life expectancy is shorter. Often times the people who smoke have lower incomes. We should discourage everybody from smoking but this places a tax on individuals that can least afford it. The tax may need to be higher but not as high as the amendment makes it.

REP. BALYEAT stated tobacco related illnesses may be driving up the costs of healthcare and health insurance but that is what the tobacco settlement is all about. We need to give the tobacco settlement time to work.

REP. LASLOVICH stated this amendment gives more money to the general fund. It is wrong that these low income people buy cigarettes and if this tax is raised maybe they will spend their money on other things.

REP. WADDILL read a letter from a Montana citizen supporting HB 58.

Vote: Motion that **AMENDMENT HB005802.ajm BE ADOPTED failed 7-13 with Branae, Carney, Cyr, Erickson, Laslovich, Schmidt, and Waddill voting aye.**

REP. BALYEAT stated he has some concerns about the bill. He went over those concerns. He stated we need to educate not regulate and this bill is a bad idea.

REP. WADDILL stated we pay taxes on fuel because there are costs associated with it. By the same token we should tax tobacco because there are costs associated with tobacco. We are paying over \$150,000,000 per year on tobacco related costs. Those costs are coming from everybody, not just the smokers. Increasing the tax cuts down on the amount of smoking as well as increasing the funds. The main purpose here is to cut down a preventive illness that causes death and disease.

REP. ERICKSON stated the tobacco companies are doing very well. Montana is one of the lowest taxed states in the country for tobacco. This has never been a punitive bill.

{Tape : 4; Side : B; Approx. Time Counter : 0.8}

Vote: Motion that **HB 58 DO PASS failed 9-11 with Branae, Carney, Cyr, Erickson, Laslovich, Schmidt, Waddill, Waitschies, and Wanzenried voting aye.**

Motion/Vote: REP. SOMERVILLE moved that HB 58 BE TABLED. Motion carried 11-9 with Branae, Carney, Cyr, Erickson, Laslovich, Schmidt, Waddill, Waitschies, and Wanzenried voting no.

EXECUTIVE ACTION ON HB 61

{Tape : 4; Side : B; Approx. Time Counter : 2.3}

Motion: REP. ERICKSON moved that HB 61 DO PASS.

Discussion:

REP. ERICKSON handed out two documents **EXHIBIT**(tah52a09) and **EXHIBIT**(tah52a10) and went over those.

REP. FUCHS stated this doesn't kick in till 2004. If this passes it will send the wrong message to businesses.

REP. CARNEY stated Montana is having a lot of trouble funding essential services like education. We cannot afford any more tax cuts.

REP. JACKSON stated the Business Equipment Tax is an inappropriate tax. He gave an example.

REP. LASLOVICH stated he is reluctantly voting against the bill because of stability.

REP. FORRESTER stated this is not a fair tax and it should be abolished.

REP. BALLYEAT stated he is convinced that there is more time to look at this. He is against the bill.

REP. BRANAE stated he is in favor of the bill.

REP. WANZENRIED stated once this revenue source is gone it is gone for good. It may be too early to do this but what are we going to look for next time?

REP. SOMERVILLE stated he is against the bill. We have to keep the faith with the small businesses in Montana. 95% of Montana is small business.

REP. WAITSCHIES stated he is against the bill.

REP. STORY stated he appreciates REP. ERICKSON bringing this bill to the committee because this issue does need to be discussed.

Noone got this tax cut until November and it is too early to look at the effects. He is opposed to the bill.

REP. ERICKSON stated he got an e-mail from a constituent who is concerned that the legislature seems to have a two year horizon. He went over the Fiscal Note.

Vote: Motion that **HB 61 DO PASS failed 5-15 with Branae, Carney, Erickson, Schmidt, and Wanzenried voting aye.**

Motion/Vote: **REP. BALES** moved that **HB 61 BE TABLED. Motion carried 15-5 with Branae, Carney, Erickson, Schmidt, and Wanzenried voting no.**

ADJOURNMENT

Adjournment: 12:15 P.M.

REP. BOB STORY, Chairman

HOLLY JORDAN, Transcription Secretary

BS/RV/HJ Transcribed by Holly Jordan

EXHIBIT (tah52aad)